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REMARKS

Applicants respectfully request reconsideration of the above-identified patent application. Claims 1, 3-9, 11 and 17-20 remain in the application. Claims 1, 5, 11 and 17 are amended to more particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 2, 10 and 12-16 are cancelled.

I. Interview

Applicant thanks Examiner Mayes for the courtesies extended to Applicant's attorney during the personal interview on May 10, 2007. During the interview, Applicant's attorney proposed amendments to the independent claims reciting that the projections extending from the tamping face have the same height or a uniform height. No agreement was reached with regard to specific claim language, but the Examiner agreed that the applied references do not disclose protrusions of the same height, and that the cited Kearney reference requires protrusions of differing heights to achieve the necessary bowing of the labels.

II. Invention Summary

The present invention is directed to a tamping labeler for applying labels to objects. The tamping labeler is capable of moving from a retracted position to an extended position in order to tamp labels onto products. The tamping labeler has a tamping face that is movable along with the labeler, and includes a base having a plurality of vacuum holes. A plurality of projections project outwardly from the base to a uniform height, or the same height. The projections are mutually exclusive of the vacuum holes. The projections maintain the label at a stand-off from the base to reduce the surface tension between the label and the tamping face.

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III. Section 112 Rejections

As previously presented, claims 1, 3-9, 11 and 17 were rejected under 35 U.S.C. 112, first paragraph. In view of the amendments presented herein, Applicants submit that this rejection is overcome.

IV. Allowable Claims

Claims 5 and 17 were rejected on the basis of Section 112, but not on the basis of prior art. In view of the amendments made to overcome the Section 112 rejections, Applicant submits that claims 5 and 17 are allowable.

V. Art Rejections

A. Section 103 Rejection Based on Crankshaw and Kearney

As previously presented, claims 1, 3, 4, 6 and 9 were rejected under 35 U.S.C. 103(a) on the basis of U.S. Patent 4,844,771 to Crankshaw in view of U.S. Patent 4,680,082 to Kearney.

Crankshaw discloses an applicator for applying labels to articles. The applicator includes a flat face that may be moved into contact with an article to place a label on the article. Vacuum pressure from a vacuum source is communicated to the face of the applicator to retain the label on the face until it is placed on an article. Crankshaw states that the label may be transferred to the article “by a blast of air and/or by tamping” the label onto the article, “with the blast of air transfer being preferred.” Col. 3, lines 16-19.

Kearney discloses a thermal label application apparatus. The labels are heated, and then peeled from their backing layer and moved onto a label application surface. The labels

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are held in place on the label surface with a vacuum, and provided with a brief burst of air in order to place them on a product that is brought into contact with the label surface. The label surface includes multiple parallel ridges 76, with vacuum holes 80 positioned in rows between each of the ridges. The ridges extend in the direction that the labels travel onto the label surface. At least one of the ridges 76 is taller than the rest to cause the labels to bow as they move onto the label surface and prevent the labels from wrinkling or bunching as they are moved onto the label surface.

As discussed during the interview, with respect to amended independent claim 1, Crankshaw and Kearney, either alone or in combination, do not disclose a tamping labeler including a plurality of projections projecting from the base of the tamping face and having a uniform height. Crankshaw fails to disclose any projections on a label application face. Kearney discloses projections on a labeler, but specifically teaches that at least one of the projections is taller than the rest in order to bend the label to prevent the label from wrinkling.

Applicants further submit that even if Crankshaw and Kearney could be combined to disclose every element of the claimed invention, such a combination would be improper because there is no reason that a person of skill in the art would combine these references. First, Crankshaw and Kearney are two completely different types of labelers. There is nothing in either reference to suggest that the raised ridges of Kearney, a stationary thermal label applicator, could be substituted into a labeler such as Crankshaw. Second, the stated purpose of the raised ridges of Kearney is to prevent the label from bunching or wrinkling as it slides across the label applicator surface. This purpose is completely inapplicable for tamping labelers, because the

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labels do not move along the tamping face, and therefore provides no motivation for modifying the face of Crankshaw to include such ridges.

Applicants further submit that Crankshaw and Kearney fail to even recognize the problem that is addressed by the present invention. Crankshaw teaches away from tamping altogether by stating that a burst of air – not tamping – is the preferred method for disposing labels on an article. Kearney is not even a tamping labeler, and therefore fails to contemplate the problems with surface tension addressed by the present invention.

Because Crankshaw and Kearney fail to disclose, teach or suggest all of the elements of amended independent claim 1, it is respectfully submitted that the rejection based on Crankshaw and Kearney under Section 103 is unfounded and/or overcome, and therefore should be withdrawn.

B. Section 103 Rejection Based on Nielsen in View of Kearney

As previously presented, claims 1, 3, 4, 6, 7, 9-11, 18 and 20 were rejected under 35 U.S.C. 103 as being unpatentable over U.S. Published Patent Application 2002/0189741 to Nielsen in view of Kearney.

Nielsen discloses a tamping labeler with a flat face for holding the labels and tamping them onto articles. With respect to amended independent claims 1 and 11, Applicant submits that Nielsen and Kearney, either alone or in combination, do not disclose a tamping labeler with projections extending from the base of a tamping face and having the same height. Nielsen fails to disclose projections, and, as discussed above, Kearney expressly teaches projections of varying heights.

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Applicants further submit that – similar to the discussion of Crankshaw and Kearney above – there is no basis for combining Nielsen and Kearney. Nielsen and Kearney are two completely different types of labelers. There is nothing in either reference to suggest that the raised ridges of Kearney, a stationary thermal label applicator, could be substituted into a tamping labeler such as Nielsen. In addition, the stated purpose of the raised ridges of Kearney is to prevent the label from bunching or wrinkling as it slides across the label applicator surface. As noted above, this purpose is completely inapplicable for tamping labelers, because the labels do not move along the tamping face, and therefore provides no motivation for modifying the face of Nielsen to include such ridges. In addition, Nielsen and Kearney completely fail to recognize the problem addressed by the present invention – let alone suggest a solution.

Because Nielsen and Kearney fail to disclose, teach or suggest all of the elements of amended independent claims 1 and 11, it is respectfully submitted that the rejection based on Crankshaw and Kearney under Section 103 is unfounded and/or overcome, and therefore should be withdrawn.

C. Dependent Claims

The dependent claims further define Applicants' invention and are therefore even more clearly allowable than the claims discussed above. Claim 3 recites that the projections are arranged such that each hole is at least partially surrounded by at least one of the projections. Claim 4 recites that at least some of the projections are ridges. Claims 6 and 18 recite that at least some of said projections are domes. Claim 7 recites flexible accordion sides for allowing

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the tamping labeler to extend and retract. Claims 9 and 20 recite that the tamping face is textured and the projections result from the texture of the tamping face.

VI. Conclusion

In view of the interview, the above amendments, and these remarks, Applicant respectfully submits that the present application is in condition for allowance. A notice to that effect is earnestly and respectfully requested.

Respectfully submitted,

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